

**SEALED**

**UNITED STATES DISTRICT COURT**

for the

Southern District of Texas

Clerk, U.S. District Court  
Southern District of Texas  
FILED

AUG 21 2017

David J. Bradley, Clerk of Court

United States of America

v.

Cody Anthony Hernandez

Case No.

C-17-851M

*Defendant(s)*

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 31, 2017 in the county of Nueces in the  
Southern District of Texas, the defendant(s) violated:

*Code Section*

*Offense Description*

18 U.S.C. 922(g)1

Felon in Possession of a Firearm

It shall be unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

This criminal complaint is based on these facts:

(See Attachment A - Affidavit)

☒ Continued on the attached sheet.



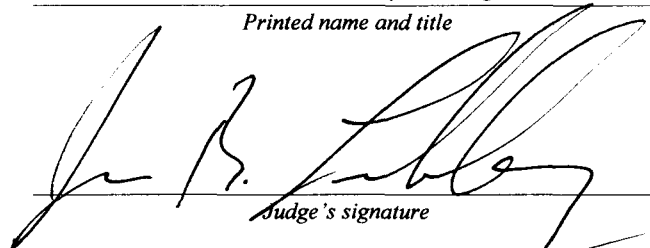
*Complainant's signature*

Juan Hernandez, Special Agent

*Printed name and title*

Sworn to before me and signed in my presence.

Date: 08/21/2017 cf 8:30am



*Judge's signature*

City and state: Corpus Christi, Texas

Jason B. Libby - United States Magistrate Judge

*Printed name and title*

## ATTACHMENT A

I, Juan Hernandez, being duly sworn, do hereby state that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a Division of the United States Justice Department, assigned to the Corpus Christi Field Office and have been so employed since December 13, 2009. Prior to employment with the ATF, I was employed as a State Trooper and also as a Sergeant Investigator for the Texas Department of Public Safety for nine years. I hold a bachelors degree from Texas A&M University-Kingsville in Applied Arts and Sciences with an emphasis in Criminal Justice. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy where I received specialized training on criminal violations of Federal firearms statutes, including the Gun Control Act (Title 18, United States Code). As a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, I am vested with the authority to investigate violations of Federal laws, including Titles 18 and 26, United States Code.

Further, the Affiant states as follows:

1. I am familiar with the information contained in this affidavit, either through personal investigation, interviews, or through discussion with other law enforcement officers, who have participated in and have contributed documentary reports of investigative efforts in this matter.
2. On August 20, 2017, your affiant reviewed Corpus Christi Police Department (CCPD) Incident/Investigation Report Case # 1707310058. This report details the arrest of Cody Anthony HERNANDEZ for felon in possession of a firearm on July 31, 2017.
3. According to the CCPD report, on July 31, 2017 CCPD Gang Unit Officers and HSI Special Agents were attempting to locate a wanted subject and were conducting surveillance on Dunbar Street in Corpus Christi.
4. As Officers/Agents were conducting surveillance on this wanted subject, Officer J. Garza advised all units to be aware for another wanted subject, Cody Anthony HERNANDEZ, who lived nearby. Officer J. Garza knew from experience, HERNANDEZ is known to possess firearms and is a Tango – Corpitos gang member. Officer J. Garza advised all units conducting surveillance to be cognizant of their surroundings for their safety and that Cody HERNANDEZ has fifteen warrants from the city municipal court.
5. HSI Special Agents observed a black Cadillac arrive at an address on Dunbar Street and back in a driveway of a residence. HERNANDEZ was observed stepping out of the driver's seat, open the rear driver's side passenger door and reach into it, messing with a bag that was inside. HERNANDEZ was the only occupant in the vehicle. HERNANDEZ walked to another vehicle on the property and returned to the black Cadillac, messed around with the bag again and closed the passenger door. HERNANDEZ then opened the driver's door as he was going to leave.
6. Officers made the decision to arrest HERNANDEZ and approached his location with CCPD marked units. As Officers approached, HERNANDEZ looked at Officers with a panic on his face. HERNANDEZ immediately threw the vehicle keys into the vehicle and closed the door. HERNANDEZ was immediately taken into custody without incident.

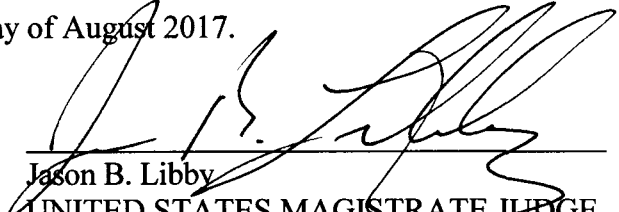
7. Officers looked at the black Cadillac and observed a black backpack in the driver's side rear passenger seat, which is the same area HSI Special Agents observed him at messing with the bag. Officers could see in plain view from outside the vehicle a Glock pistol inside the unzipped bag.
8. Officers impounded the vehicle and conducted an inventory search. Officers seized the Glock pistol, which is described as a Glock, model 23, .40 caliber pistol with serial number LXY929.
9. Special Agent Hernandez received the below certified felony convictions for Cody Anthony HERNANDEZ from CCPD Gang Detective Albert Armendariz;
  - Burglary of a Habitation (Second Degree Felony), under cause number 08CR2359D in the 105<sup>th</sup> District Court of Nueces County, Texas and sentenced to seven (7) years in the Institutional Division of the Texas Department of Criminal Justice on November 10, 2008.
  - Aggravated Robbery (First Degree Felony), under cause number 08CR26639D in the 105<sup>th</sup> District Court of Nueces County, Texas and sentenced to seven (7) years in the Institutional Division of the Texas Department of Criminal Justice on November 10, 2008.
  - Criminal Mischief (Stated Jail Felony), under cause number 08CR3189D in the 105<sup>th</sup> District Court of Nueces County, Texas and sentenced to two (2) years in the Institutional Division of the Texas Department of Criminal Justice on November 10, 2008.
10. On August 18, 2017 ATF Special Agent Arnie Gutierrez, who is trained in determining interstate nexus of firearms researched the above-described firearms and determined that the firearm was made outside of the State of Texas and therefore affected interstate commerce when it arrived in the State of Texas.
11. Based on the above information, your affiant believes Cody Anthony HERNANDEZ, a previously convicted felon, was in possession of a firearm in violation of Title 18, United States Code, Section 922(g)(1), on July 31, 2017, in Nueces County, Texas.

This criminal complaint was approved for filing by AUSA Lance Watt.

Further the Affiant sayeth not.

  
\_\_\_\_\_  
Juan Hernandez, ATF Special Agent

Subscribed and sworn to before me this 21<sup>th</sup> day of August 2017.

  
\_\_\_\_\_  
Jason B. Libby  
UNITED STATES MAGISTRATE JUDGE